

24 March 2022

Taxi/ PHV licensing update

Purpose of report

For information.

Summary

This paper provides an update on current issues in taxi licensing and the LGA's work on taxi licensing reform. The Board's views on this work and the LGA's priorities would be welcome.

Recommendation/s

SSCB members to provide their views on the future of taxi licensing and proposals for reform.

Action/s

Officers to take forward as directed.

Contact officer: Jade Hall
Position: Policy Adviser
Phone no: 07818 577467
Email: jade.hall@local.gov.uk

24 March 2022

Taxi/ PHV licensing update

Background

1. Reform of taxi (hackney carriage) and private hire vehicle (PHV) licensing is a long-standing lobbying ask for the LGA. In 2014, the Law Commission reviewed taxi and PHV services and developed a draft reform bill, but this was not taken forward. A Task and Finish Group was set up in 2017 by a former Taxis Minister, John Hayes MP, to look at issues in taxi licensing, and proposed a wide set of reforms. The LGA participated in this Task and Finish Group.
2. Following the publication of the Task and Finish Group report in 2018, the Government committed to bring forward legislation to reform taxi/PHV licensing, but no date has been confirmed for a bill to be brought forward. However, some significant progress has been made outside of legislative change. In July 2020 the Department for Transport published its [taxi and PHV statutory standards](#), which are primarily focused on safeguarding: the standards adopted many of the approaches the LGA had long since recommended in our taxi licensing handbook. The Department for Transport is also due to publish best practice guidance in the coming months.
3. Most recently, the Government outlined proposals to reform taxi/PHV licensing in its [Levelling Up White Paper](#). The Government announced its intention to “*explore devolving more transport powers and responsibilities in England ... The UK Government will also explore transferring control of taxi and private hire vehicle licensing to both combined authorities and upper-tier authorities. Taxis and private hire vehicles are a key part of local transport systems, so this would allow LTAs to fully integrate these modes into their Local Transport Plans.*”
4. This follows up on the recommendation by the Task and Finish Group report that the Government should emulate the model of licensing which currently exists in London (where taxi/PHV licensing is managed by Transport for London) in large urban areas as well as consider the consolidation of non-metropolitan licensing areas.

Issues

5. Piecemeal changes to legislation in recent years have not kept pace with rapid advances in technology, which have changed the way taxis/PHVs operate in the 21st century. While largely welcomed by consumers, this has in some regards made it increasingly difficult for councils to fulfil their duties around public protection and has undermined the previously very localist approach to PHV licensing in particular.
6. While the legislation relating to taxis/PHVs is extensive, it is mainly concentrated in the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions)

24 March 2022

Act 1976. Within London, taxis and PHVs are licensed under the Metropolitan Public Carriage Act 1869 and London Cab Order 1934. This legislation provides a broad framework for the licensing of drivers, vehicles and operators, but the detail of how this is done, including standards and conditions, is the responsibility of individual district and unitary councils.

7. A key challenge is the increase in the volume of out of area working by licensed drivers, partly facilitated by the widespread use of app based private hire models, with drivers no longer dependent on a radio link to a local operator base. This has raised concerns about how new taxi/PHV service operating models fit into the current framework, with many drivers now working outside the area they are licensed in. This causes issues including enforcement officers being unable to take action against drivers and vehicles licensed outside their areas; congestion and disruption to local residents where certain areas attract large numbers of drivers; and frustration about an uneven playing field, with drivers licensed according to different standards in different areas.
8. The taxi trade also has many frustrations with the current taxi/ PHV licensing system. For example, taxi drivers have argued that app based PHV models are effectively permitting electronic plying for hire, while PHV drivers and firms are unhappy about the different standards applying to drivers operating in the same area due to out of area working. Similarly, newer, national operators have expressed frustration about the complexity of navigating the different licensing frameworks of different licensing authorities. Undoubtedly, technological changes have led to changes in the market which have blurred the boundaries between taxis and PHVs and expanded the areas in which drivers, and firms, can operate.
9. Alongside changes to the market, over the past decade there has been increased awareness of the critical importance of safeguarding within taxi/PHV licensing. The reviews by Professor Alexis Jay and Dame Louise Casey into child sexual exploitation in Rotherham exposed the extent to which failures in taxi/PHV licensing had enabled exploitation to take place and highlighted that this needed to be the key consideration for councils overseeing taxi/PHV licensing frameworks.
10. More recently the trade has been significantly impacted by the COVID-19 pandemic, with many drivers choosing to leave the trade having secured new jobs elsewhere. This has left many taxi/PHV operators with a shortage of drivers.
11. The LGA has undertaken a significant amount of work to try and address the challenges outlined above, such as training workshops for members and officers focusing on safeguarding issues, developing a taxi and PHV licensing handbook, and developing and funding the national register of licence revocations and refusals, or NR3, as it is more commonly known. NR3 provides a mechanism for licensing authorities to record details

24 March 2022

of where a taxi or PHV drivers' licence has previously been refused or revoked. This allows licensing authorities to check new applicants against the register and make an informed decision on whether an applicant is fit and proper when making a licensing decision. It is intended to prevent someone having a licence revoked in one authority but securing elsewhere without declaring their earlier licensing history. As the Board are aware, use of NR3 (or an equivalent database) is set to become mandatory as a result of Peter Gibson MP's Private Member's Bill, which is expected to pass later this month.

12. While there have been positive developments such as this, the LGA and others still believe that overall reform is needed to update taxi/PHV legislation and make it fit for the 21st century. We have been lobbying Government to introduce a comprehensive Taxi and PHV Reform Bill that covers the full range of safeguarding, market and enforcement issues that need addressing. However, the proposed consultation set out in the Levelling Up White Paper indicates that legislative reform would inevitably consider fundamental changes, including to current licensing boundaries, which may not be welcomed by licensing authorities.

LGA asks

13. In our previous work on taxi/PHV licensing reform (including our submission to the 2017 task and finish group), we have called for the following:
 - 13.1. The development of a national database of all licensed taxi/PHV drivers to facilitate greater information sharing between partners and assist with safeguarding. The Department for Transport has committed to developing this when parliamentary time allows.
 - 13.2. To implement some limits on out of area working by drivers. This is a challenging issue; Transport for London have previously proposed an approach whereby a driver must always start or finish a job in the area where they are licensed, although not all councillors or licensing authorities have supported this. How to restore some level of local control, while balancing the flexibilities of the current market which consumers undoubtedly welcome, is a key challenge.
 - 13.3. To develop national minimum standards on key issues such as safeguarding with local flexibility on some issues where there may be less need for national consistency (eg, around environmental standards). Again, in the task and finish group it was clear that many stakeholders would prefer to see national consistency and conditions across the board,

24 March 2022

Levelling Up White Paper

14. As mentioned earlier in this paper, the [Government's Levelling Up White Paper](#) contains a proposals to transfer control of taxi and private hire vehicle licensing to both combined authorities and upper-tier authorities.
15. The Levelling Up White Paper recommendation is based on the view – supported by most members of the task and finish group, although not endorsed by the LGA as a member of the group – that it would be preferable to have fewer licensing authorities covering larger areas. It is believed that reducing the number of taxi/PHV licensing authorities would reduce inconsistencies between areas, as well as cross-border/out of area working by drivers.
16. As a general principle, the LGA does not comment on proposals to remove responsibilities from one part of local government and switch them to another, given the likely different views of different LGA members. We would expect to take the same approach in relation to any consultation on the future of taxi/PHV licensing.
17. However, within that context, there are nevertheless some broad principles that we would expect to want to highlight, specifically:
 - 17.1. A major reform to taxi/PHV licensing as outlined in the levelling up white paper could not be considered in isolation: it must be part of a full and holistic look at all the changes required in taxi/PHV licensing, with any changes forming part of the a comprehensive taxi and PHV reform Bill that the LGA has long called for.
 - 17.2. Taxi/PHV licensing does not happen in isolation – it is part of a much wider set of licensing authority responsibilities and therefore any possible changes should also consider the implications for other regimes such as alcohol and entertainment and gambling licensing.
18. LGA officers have met with officials at the Department for Transport who have committed to exploring these issues with stakeholders and confirmed Government will consult on the proposals. We have had an informal steer that work on this will not begin until the summer at the earliest and felt that officials seemed cognisant of the potential challenges linked to this proposal. We advised colleagues at the Department for Transport to ensure that officials at the Home Office and the Department for Digital, Culture, Media and Sport, who have an interest in the wider role of licensing authorities, are kept informed about this work.

24 March 2022

Questions for discussion

19. Board members' thoughts on the issues surrounding these updates would be helpful. Specifically, we would be keen to understand members views on whether the LGA's previous policy position and the asks in paragraph 13 are still appropriate.
20. It would also be useful to get an understanding of Board Members views on the Levelling Up White Paper proposal and the potential for moving taxi/PHV licensing responsibilities.

Implications for Wales

21. The proposals in the Levelling Up White Paper apply to England only. The Welsh government is progressing its own reform proposals for taxi/PHV licensing in Wales.

Financial Implications

22. None

Next steps

23. Officers will use the Board discussion to inform our input to the expected consultation, as well as our wider lobbying on taxi/PHV licensing reform.